



U.S. Department
of Transportation
**Federal Aviation
Administration**

MAY 20 2013

Mr. Michael Morisy
MuckRock News
P.O. Box 55819
Boston, MA 02205-5819

FOIA Control No. 2013-3599

Dear Mr. Morisy:

This letter responds to your March 12, 2013, Freedom of Information Act (FOIA) request for a copy of contract number DTFAWA-10-D-00030, with Booz Allen Hamilton and any final reports generated and delivered by Booz Allen Hamilton associated with this contract.

We are releasing a copy of the above mentioned contract and copies of the final reports delivered under the contract, however we are excluding the following information:

1. Section B. – direct labor contract line item numbers associated with pricing, rates, and materials.
2. Section G. - Banking information “G.13”.

These portions of the records you requested are exempt from disclosure under 5 U.S.C. Section 552(b)(4) as implemented by 49 CFR 7.13(c)(4) as they concern “trade secrets and commercial or financial information obtained from a person and privileged or confidential”.

We have made an independent determination that the information falls within Exemption 4 of the Freedom of Information Act. Therefore, we are withholding the unit pricing in accordance with McDonnell Douglas Corp. v. National Aeronautics and Space Administration, 180 F.3d 303 (D.C. Cir. 1999), and the remaining information based on National Parks & Conservation Assn. v. Morton, 498 F.2d 765 (D.C. Circuit 1974). Exemption 4 protects trade secrets or commercial or financial information submitted to the Government in confidence, if disclosure would, as in this case, cause harm to the competitive position of the company from whom the information was obtained.

The fee for your FOIA request is \$0.00.

The undersigned is responsible for this partial denial. You may request reconsideration of this determination by writing to the Assistant Administrator for Regions and Center Operations, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591. The application must be made in writing within 30 days from the date of receipt of this letter and must include all information and arguments relied upon.

Your letter must state that it is an appeal from the above-described denial of a request made under the FOIA and include your assigned FOIA control number. The envelope containing the appeal must be marked "FOIA".

Sincerely,



Patricia A. McNall
Deputy Assistant Administrator
for Acquisition and Business

Enclosure



FREEDOM OF INFORMATION ACT REQUEST CHECKLIST/FEE WORKSHEET

FOIA Requester:	Michael Morisy	FOIA Response Due Date:	04/22/2013
FOIA Request Number:	2013-3599	FOIA Respondent(<i>Person preparing the response</i>):	Date: 04/22/2013

Scoping the Request (*Check all applicable items*)

- Identify responsive records.
- Contact the requester by phone to negotiate/clarify the request. Date:
- Contact any other offices, services, regions, etc., which are likely to have responsive records. Date:

- Estimate fees
 - Fee waiver requested.* Granted* Denied*
 - Calculate estimated fees.*
 - Notify requester of fee estimate (if over \$25) and/or requirement to prepay fees (if estimate is over \$250 or previous payments not timely)* Date:

- Send a follow-up letter or fax re: renegotiated or clarified request, extension and fee.* Date (s): **04/11/2013**
- Basis for extension*
 - Volume Consultation Records located in field facilities/other establishments separate from office processing request

Search and Review (*Check all applicable items*)

- Search all sources likely to house responsive records.
- Obtain records from and coordinate response with other offices, services, regions, etc.
- If no records are located, document the search in the *remarks section* (page 4) stating the type of search (*manual, automated*), the files searched, and the name and title of the person who conducted the search.
- Determine whether any exemptions apply.* Consult with legal counsel, if appropriate.
 - Exemption 1.** Classified information
 - Exemption 2.** Internal matters that would risk circumvention of statute or agency regulations
 - Exemption 3.** Information specifically protected by other statutes; list statute
 - Exemption 4.** Trade secrets or commercial or financial information that is privileged or confidential and submitted to the agency by any person
 - Exemption 5.** Interagency and intra-agency memoranda or letters that would normally be privileged; i.e., predecisional and deliberative; attorney work product; attorney-client privilege
 - Exemption 6.** Information about an individual the disclosure of which would constitute a clearly unwarranted invasion of personal privacy
 - Exemption 7.** Information compiled for law enforcement purposes, if disclosure
 - (a) could reasonably be expected to interfere with enforcement proceedings
 - (b) could reasonably be expected to deprive a person of a right to a fair trial
 - (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy
 - (d) could reasonably be expected to disclose identity of a confidential source
 - (e) could disclose techniques and procedures for law enforcement investigations or prosecutions
 - (f) could reasonably be expected to endanger the life or physical safety of an individual
 - Exemption 8.** Information submitted for regulation or supervision of financial institutions
 - Exemption 9.** Geological and geophysical information concerning wells
- Contact any other agency or private party about documents they submitted to FAA*
- Calculate fees charged to requester and actual agency costs. (*Consult fee worksheet on page 3*)*

* Apprise FOIA coordinator of action/status to be entered in the National Tracking System (NTS). NTS is an online tracking system that lists all FOIA requests and allows tracking from initial entry through final response (and appeal process, if applicable).

FREEDOM OF INFORMATION ACT REQUEST CHECKLIST/FEE WORKSHEET (Continued)

FOIA Requester: Michael Morisy **FOIA Request Number:** 2013-3599

Decision Letter — Full Disclosure* (Prepare when no part of a requested record is withheld)

- Prepare letter for program director or division manager signature, as appropriate*
- Include fee charges and collection information, if appropriate** (Check/money order made payable to DOT/FAA). (If fees are less than \$10, indicate in the letter that there are no fees associated with the request because processing was less than \$10)

Decision Letter — Denial/Partial Denial* (Prepare if any material is denied)

- Prepare letter for head of office, service, region, or center signature, as appropriate*
- Include name(s) & title(s) of person responsible for denial
- Cite applicable exemption and include brief statement explaining the exemption
- Specifically identify the type and amount of information that is being withheld for each exemption applied
- Include appeal rights paragraph
- Coordinate with all offices having an interest in the document
- Coordinate with FOIA legal staff*
- Include fee charges and collection information, if appropriate** (Check/money order made payable to DOT/FAA). (If fees are less than \$10, indicate in the letter that there are no fees associated with the request because processing was less than \$10)

Decision Letter — “No Records”/Partial “No Records” Determination* (Prepare if no records are located for all or part of request)

- Prepare letter for head of office, service, region, or center signature, as appropriate*
- Include name(s) & title(s) of person responsible for determination
- State the type of search conducted, the location of files searched, and provide an explanation of why there are no records, if possible
- Include appeal rights paragraph
- Coordinate with all offices likely to have responsive documents
- Coordinate with FOIA legal staff (*and ARC-40, if headquarters*)*
- Include fee charges for search and collection information, if appropriate** (Check/money order payable to DOT/FAA). (If fees are less than \$10, indicate in the letter that there are no fees associated with the request because processing was less than \$10)

Other Determination Not to Comply (Check applicable item)*

- Referral to another DOT mode, or referral of records to another federal agency*
- Failure to adequately identify records sought*
- Request cancelled/withdrawn*
- Refusal to pay reasonable fee*

FOIA File Documentation (Check all applicable items)

- Maintain a copy of the released and withheld documents
- Document search in remarks, if no records found*
- Complete the checklist/fee worksheet and include it in the file*
- Forward a copy of the signed decision letter (*with FOIA no.*) to HQ or regional FOIA coordinator and any other involved office(s)
- Headquarters FOIA coordinators** shall forward a copy of all signed decision letters with a completed checklist/fee worksheet to ARC-40

* Apprise FOIA coordinator of action/status to be entered in the National Tracking System (NTS). NTS is an online tracking system that lists all FOIA requests and allows tracking from initial entry through final response (and appeal process, if applicable).

FREEDOM OF INFORMATION ACT CHECKLIST/FEE WORKSHEET

FOIA Request Number:	2013-3599			<input type="checkbox"/> Fee Waiver Requested	<input checked="" type="checkbox"/> Fee Waiver Approved	
FEE CATEGORY OF REQUESTER		TYPE OF FEE				
		SEARCH		REVIEW	DUPLICATION	
<input type="checkbox"/> Commercial use		All		All	All	
<input checked="" type="checkbox"/> News media		None		None	All except first 100 pages	
<input type="checkbox"/> Educational and noncommercial scientific institutions		None		None	All except first 100 pages	
<input type="checkbox"/> All other		All except cost of first 2 hours		None	All except first 100 pages	
FEE COMPUTATION: CONTACT YOUR FOIA COORDINATOR TO AUTOMATICALLY CALCULATE FEES USING THE FOIA NATIONAL TRACKING SYSTEM (NTS) OR TO OBTAIN THE DOT ACTUAL DOLLAR RATE FOR MANUAL CALCULATIONS.						
EMPLOYEE PAY RANGES						
PAY RANGE 1: FG-1 thru FG-8, or Pay Bands A thru F N/A		PAY RANGE 2: FG-9 thru FG-14, or Pay Bands G thru J N/A			PAY RANGE 3: FG-15 and above, or Pay Bands K thru L N/A	
A Search Time (Applies to time spent searching for or locating responsive records).						
1. Manual	Searcher's Pay Range	Hours Searched	DOT Actual Dollar Rate	Total	Charged to Requester	Incremental Costs not charged to requester
	0	0	\$0.00	\$0.00	\$0.00	
2. Central Processing Unit	Actual CPU Time	Operator time (rate X hours searched)	DOT Actual Dollar Rate	Total	Charged to Requester	Incremental Costs not charged to requester
B Review Time (Applies to time spent reviewing any responsive records to determine whether they are exempt from disclosure).						
	Reviewer's Pay Range	Hours Reviewed	DOT Actual Dollar Rate	Total	Charged to Requester	Incremental Costs not charged to requester
	0	0	\$0.00	\$0.00	\$0.00	

FREEDOM OF INFORMATION ACT REQUEST CHECKLIST/FEE WORKSHEET (Continued)

C Duplication Costs (Applies to duplicating responsive records).

Type of Duplication	Quantity and Rate	Total	Charged to Requester	Incremental Costs not Charged to Requester
1. Photocopies	0 pages x 0.10 per page	\$0.00	\$0.00	
2. Certified Copies	_____ packages <u>with seal</u> x \$4.00 _____ packages <u>without seal</u> x \$2.00			
3. Computer Tapes & Printouts	Actual Cost			
4. Other Methods	Actual Cost			
5. Digital Audio Tapes (DAT)	\$25.00 per DAT + \$30.00 for each different block of time requested within a facility's 24-hour master DAT. (See latest version of FAA Order 7210.3, Facility Operation and Administration)			
6. ATC Tapes	_____ hours or portion thereof x \$30.00			

D Other Incurred Costs Not Charged to Requester (Specify)

Charged to Requester
TOTAL =

Incremental Costs
TOTAL =

Remarks:

FOIA Respondent Signature:

(Completion of FOIA Request, Checklist/Fee Worksheet)

Date
4/22/13

FOIA Coordinator Signature:

(Checklist/Fee Worksheet & Response Letter Review)

Date

Booz Allen & Hamilton Inc.
955 L'Enfant Plaza North, SW
Washington, DC 20024

Tel 1-202-406-3900

www.boozallen.com

April 19, 2012

Mr. Darrin Smith
Contract Specialist
Federal Aviation Administration
800 Independence Avenue, SW, Room 929
Washington, DC 20591

SUBJECT: Freedom of Information Act (FOIA) Request 2013-3599
Contract DTFAWA-10-D-00030

Dear Mr. Smith:

Booz Allen appreciates the opportunity to respond to your letter, dated April 10, 2013, same subject as above. We have reviewed the list of Contract Data Requirements List (CDRL) submissions under the subject contract provided in the Excel spreadsheet (file: BAH CRDLs (final report).xls) included with your letter. We request the removal of the following CDRLs from the provided “final report” CDRL listing based on the associated justifications provided below.

- Row 1224: Task Order (TO) 0001 Contract Performance Report (CPR) - August 2010
(30-0001-CDRL-0001-Y1-003 CPR_Aug 2010(final).xls)
- Row 1233: TO 0001 CPR - May 2011
(30-0001-CDRL-0001-Y1-011(CPR)_Final.xls)
- Row 1239: TO 0001 Contract Cost Status Report (CCSR) - July 2010
(30-0001-CDRL-0003-Y1-002 CCSR_Jul 2010(Final).xls)
- Row 1240: TO 0001 CCSR – August 2010
(30-0001-CDRL-0003-Y1-003 CCSR_Aug 2010(final).xls)
- Row 1247: TO 0001 CCSR – May 2011
(30-0001-CDRL-0003-Y1-011 (CCSR)_Final.xls)

Justification: These CDRLs fall outside the scope of the subject FOIA request as they are not “final reports.” These “CPR” and “CCSR” CDRLs are recurring monthly performance/status reports, vice final reports, covering July, 2010, August 2010, and May 2011 and should be excluded from the listing of “final reports” as are the other monthly CPRs and CCSR submitted under TO 0001, Program Management, and follow-on SE-2020 Program Management TOS.

If these CDRLs are released under the subject FOIA request, Booz Allen requests that the names, telephone numbers and email address of Booz Allen's points of contact be

April 19, 2013

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redacted on the “[CPR or CCSR] Memo” tab of each corresponding TO 0001 CPR and CCSR CDRL, and in rows 7 through 9 of each individual TO tab (TO 1 through TO 25 tabs, as applicable) of each identified TO 0001 CPR and CCSR CDRL pursuant to 5 U.S.C. § 552(b)(6) (Exemption 6). Exemption 6 covers “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). This exemption is intended to “protect individuals from the injury and embarrassment that can result from the unnecessary disclosure of personal information.” *Dep’t of State v. Washington Post Co.*, 456 U.S. 595, 599 (1982). Courts have allowed parties to invoke this exemption to prevent disclosure of private information where (1) it contains “personnel or medical files and similar files” and (2) disclosure would constitute a “clearly unwarranted invasion of personal privacy” as balanced against the public’s right to disclosure. *See Dep’t of the Air Force v. Rose*, 425 U.S. 352, 372 (1979); *see also Berger v. IRS*, 288 Fed. Appx. 829, 832 (3d Cir. 2008) (“To determine whether the exemption applies, courts balance the public interest in disclosure against the privacy interest protected by the exemption”).

As indicated, the spreadsheet tabs indicated above contains the names, telephone numbers, and email address of Booz Allen personnel. Releasing this information would clearly invade the personal privacy of these individuals, and at no countervailing public benefit. *Nat’l Ass’n of Retired Fed. Employees v. Horner*, 879 F.2d 873, 878 (D.C. Cir. 1989) (holding that release of personal information of government retirees would create the risk of unwanted intrusions of privacy). For this reason, Booz Allen is requesting the redaction of this information from the response to the FOIA request if these CDRLs are released.

- Row 1474: TO 0008 CCSR – July 2011
(30-0008-CDRL-0010-Y1-011-CCSR_final.doc)

Justification: This CDRL falls outside the scope of the subject FOIA request as it is not a “final report.” This “CCSR” CDRL is a recurring monthly status report, vice final report, covering July, 2011 and should be excluded from the listing of “final reports” as are the other monthly CCSRs submitted under TO 0008, En Route & Oceanic Safety Support.

- Row 1576: TO 0013 Program Management Review (PMR) Agenda and Minutes – October 27, 2010 (30-0013-CDRL-0003-Y1-0012010 10 27 PMR Minutes Final.doc)
- Row 1581: TO 0013 PMR Agenda and Minutes – March, 29, 2011
(30-0013-CDRL-0003-Y1-007 (PMR Agenda and Minutes) 032911(Final).doc)
- Row 1582: TO 0013 PMR Agenda and Minutes – May, 5, 2011
(30-0013-CDRL-0003-Y1-008 (PMR Agenda and Minutes) 050511(Final).doc)

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Justification: These CDRLs fall outside the scope of the subject FOIA request as they are not “final reports.” These CDRLs are recurring summaries of the agendas and minutes for quarterly FAA NextGen Facilities Program Office PMRs as provided under TO 0013, NextGen Facilities Program Management and Requirements Support. As recurring quarterly reports, vice final reports, they should be excluded from the listing of “final reports” as are the other quarterly NextGen Facilities PMR Agenda and Minutes CDRLs submitted under TO 0013 and follow-on SE-2020 NextGen Facilities Program Management and Requirements Support TOs.

- Row 1595: TO 0013 High Level Briefings Package – May 12, 2011
(30-0013-CDRL-0006-Y1-006 (High Level Briefings Package)Final.doc)
- Row 1596: TO 0013 High Level Briefings Package – June 12, 2011
(30-0013-CDRL-0006-Y1-007 (High Level Briefings Package)Final.doc)
- Row 1597: TO 0013 High Level Briefings Package – July 13, 2011
(30-0013-CDRL-0006-Y1-008 (High Level Briefings Package)Final.doc)
- Row 1598: TO 0013 High Level Briefings Package – August, 18, 2011
(30-0013-CDRL-0006-Y1-009 (High Level Briefings Package)Final.doc)

Justification: In accordance with direction provided by the FAA NextGen Facilities Program Office, these CDRLs are marked: “FOR OFFICIAL USE ONLY The information in this document is protected in accordance with FAA Order 1600.75 Procurement Sensitive and Draft Deliberative Documents. For discussion purposes only. Do not release under FOIA.” These CDRLs should be exempted from the subject FOIA request accordingly.

All of the CDRLs identified in the Excel spreadsheet (file: BAH CRDLs (final report).xls) included with your letter are required, vice voluntary, submittals. As requested in your letter, an updated Excel spreadsheet (file: BAH CDRLs (final report) – BAH update.xls) is included as an attachment to this response which incorporates our requested changes.

Booz Allen asks that your office carefully consider release of any information other than those identified in the attached updated Excel spreadsheet, and that it be afforded the opportunity to again review any other documents you consider releasable before offering them to a requestor. In the event that FAA decides to release any of the CDRLs identified above, or if you determine that FOIA request 2013-3599 encompasses any information beyond that addressed in your subject letter, Booz Allen requests that it be provided with ten (10) day notice of (i) the proposed date of the FAA’s planned disclosure of such information, (ii) the identity the specific information to be disclosed, and (iii) a statement of the reasons why Booz Allen’s objections were not honored. Booz Allen respectfully makes this request in advance so that it may take whatever action is necessary to protect its legal rights and to prevent the competitive harm that would be caused by disclosure of sensitive information.

April 19, 2013

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If you have any additional questions or need any additional information regarding this response, please contact me at 703-984-0449 or by email at Craven_Timothy@bah.com.

Sincerely,



BOOZ ALLEN HAMILTON INC.

Timothy Craven
Senior Contracts Administrator
Attachment



U.S. Department
of Transportation
**Federal Aviation
Administration**

April 10, 2013

Mr. Timothy Craven
Booz Allen Hamilton Inc.
8283 Greensboro Drive
McLean, VA 22102

Freedom of Information Act (FOIA) Request 2013-3599
Contract DTFAWA-10-D-00030

Dear Mr. Craven:

This letter is to inform you that the Federal Aviation Administration (FAA) has received a Freedom of Information Act (FOIA) request for certain information under the referenced contract, to include a copy of the contract and any final reports generated and delivered by Booz Allen Hamilton to the agency over the past 5 years.

Enclosed is the redacted contract that was approved by Booz Allen Hamilton on August 16, 2010 for FOIA request (2010-6183) and FOIA request (2011-1335) on November 30, 2010. Please confirm that the attached redacted document is acceptable or provide an updated document with the changes incorporated.

Also attached is a list of Booz Allen Hamilton final reports for your review. **Please disregard the row 1 in the excel spreadsheet.**

The requested information must be released unless it is exempt from mandatory release under the FOIA. To be withheld, the records must be covered by a statutory exemption set forth in 5 U.S.C. 552(b), of which (b)(4) may be applicable. Exemption 4 covers, in part, "trade secrets and commercial or financial information obtained from a person that is privileged or confidential."

For records to be exempt from release as trade secrets there must be "a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort." The standard requires that there be a direct relationship between the trade secret and your productive process. If you believe these records meet this standard, please provide us with your justification.

For records to be exempt from release as commercial or financial information, a determination must be made as to whether the records were (a) required to be submitted to the agency, or (b) submitted voluntarily.

a. For records that were required to be submitted to the FAA, to be deemed non-releasable, the records must be such that their disclosure would either, (1) impair the Government's ability to obtain necessary information in the future, or (2) cause substantial harm to the competitive position of the person from whom they were obtained or their current owner. These standards were set by the court in National Parks & Conservation Assn v. Morton, 498 F. 2d 765 (D.C. Circuit 1974).

b. For records that were voluntarily submitted to the FAA, to be deemed non-releasable, the agency must determine whether the information is confidential by determining whether the information requested is "of a kind that would customarily not be released to the public by the person from whom it was obtained." This is the standard set by the court in Critical Mass Energy Project v. NRC, 975 F. 2d 871 (D.C. Cir. 1992) (en banc), cert. denied, 113 S. Ct. 1579 (1993).

Once the FAA has determined whether the information requested is "required" or "voluntarily submitted" information, it will apply the appropriate standard in determining whether the information is releasable.

Further, we need an explanation of the commercial sensitivity, if any, of the material requested. Also, if you believe that release of the requested information would cause substantial competitive harm, you should provide appropriate evidence to support your position. In this regard, please provide this office with a specific description concerning how disclosure of any or all of the material identified above would cause substantial harm to your present or future competitive position, complete with any and all factual justifications which would permit the FAA to invoke this FOIA exemption. Some factors you may wish to describe are: the general custom or usage in your business regarding this type of information, the number and position of persons who have, or have had access to the information, the type and degrees of commercial injury that disclosure would cause, and the length of time you feel confidential treatment is warranted.

Likewise, if you contend that any voluntarily submitted information is "of a kind that would customarily not be released to the public," you need to provide the agency with a description of its treatment of the information, including any disclosures that are customarily made and the conditions under which such disclosures occur.

Should an agency denial of a request under the FOIA be challenged in court, the agency bears the burden of providing the applicability of any claimed exemption. It is also important to remember that the FOIA requires release of reasonably segregable portions of the records after deletion of the exempt segments. Therefore, your response to this letter should avoid broad claims of exemption that would cover nonexempt information.

Due to the response time limits imposed on the government in these cases, we request that you provide your response by 4:00 pm, Friday, April 12, 2013. Please make sure that you include your assigned FOIA Control number in your response. If your response is received by the specified date, your objections will be given due consideration before we make a decision. If we have not heard from you by that date, we will assume that you have no objection to disclosure of the information requested.

We will carefully consider the justification you provide us and will endeavor to protect any trade secret or commercial or financial information to the extent permitted under law. Should we disagree with your position regarding some or all of the information requested, and determine it to be releasable, we will provide you with advance notice of our decision so that you may take whatever steps you consider appropriate to protect your interests.

Thank you for your attention to this matter.

Sincerely,



Darrin Smith
Contract Specialist
Darrin.smith@faa.gov
202-267-4366



U.S. Department
of Transportation
**Federal Aviation
Administration**

April 11, 2013

Mr. Michael Morisy
MuckRock News
DEPT MR 3328
P.O. Box 55819
Boston, MA 02205-5819

Subject: Freedom of Information Act (FOIA) Request 2013-3599
Contract DTFAWA-10-D-00030

Dear Mr. Morisy:

This letter is to acknowledge receipt of your FOIA request for the contract listed above. We request an extension of 15 business days due to the Booz Allen Hamilton needing more time to review the documents and due to the Federal Aviation Administration employees being furloughed. Please notify us of your concurrence.

Please contact me at Darrin.smith@faa.gov or 202-267-4366 if you have any questions.

The estimated fee for your FOIA request 2013-3599 is \$0.00 which is based on:

Search	= \$0.00
Review	= \$0.00
Duplication	= \$0.00
Total Due	= \$0.00

Sincerely,

A handwritten signature in black ink that reads "Darrin Smith". The signature is fluid and cursive, with "Darrin" on top and "Smith" below it, slightly overlapping.

Darrin Smith
Contract Specialist